

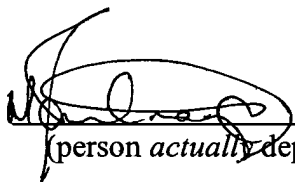


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By:   
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Application of: Nichols et al.

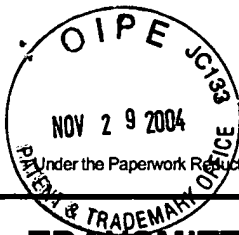
Application No.: 09/868,689

Filing Date: September 26, 2001

Title: A Simulation System For A Simulation Engine With A Help Website And Processing Engine

- Transmittal, 1 page
- Fee Transmittal, 1 page (in duplicate)
- Brief on Appeal, 16 pages (in triplicate)
- Return Receipt Postcard

Attorney Docket No: 005222.00163



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PTO/SB/21 (02-04)

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/868,689	
	Filing Date	September 26, 2001	
	First Named Inventor	Mark Stewart Nichols	
	Art Unit	2121	
	Examiner Name	Hirl, Joseph P.	
Total Number of Pages in This Submission		Attorney Docket Number	005222.00163

ENCLOSURES (check all that apply)				
<input checked="" type="checkbox"/> Fee Transmittal Form  <input type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment / Reply  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/Incomplete Application  <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input checked="" type="checkbox"/> Appeal Communication to Group (in triplicate)(Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Certificate of Express Mailing; Return Receipt Postcard		
<table border="1"><tr><td>Remarks</td><td>Being filed via Express Mail Label No. EV363907055US.</td></tr></table> <p>A duplicate of the fee sheet is enclosed. The Commissioner is authorized to debit or credit any overpayment or deficiency to Deposit Account No. 19-0733.</p>			Remarks	Being filed via Express Mail Label No. EV363907055US.
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Kenneth F. Smolik Reg. No. 44,344
Signature	
Date	November 29, 2004

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PTO/SB/17 (10-04v2)

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**FEE TRANSMITTAL  
for FY 2005**

Effective 10/01/2004. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) 340**Complete if Known**

Application Number	09/868,689
Filing Date	September 26, 2001
First Named Inventor	Mark Stewart Nichols
Examiner Name	Hirt, Joseph P.
Art Unit	2121
Attorney Docket No.	005222.00163

**METHOD OF PAYMENT (check all that apply)**☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit  
Account  
Number

19-0733

Deposit  
Account  
Name

Banner &amp; Witcoff, LTD.

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments  
☒ Charge any additional fee(s) or any underpayment of fee(s)  
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	790	2001	395	Utility filing fee	
1002	350	2002	175	Design filing fee	
1003	550	2003	275	Plant filing fee	
1004	790	2004	395	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
<b>SUBTOTAL (1)</b>					<b>(\$0)</b>

**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Total Claims		-20 **	=	0	X	Fee from below	=	0	Fee Paid
Independent Claims		-3 **	=	0	X		=	0	
Multiple Dependent					X		=	0	

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	88	2201	44	Independent claims in excess of 3
1203	300	2203	150	Multiple dependent claim, if not paid
1204	88	2204	44	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

**SUBTOTAL (2)** (\$0)

\*\*or number previously paid, if greater; For Reissues, see above

**FEE CALCULATION (continued)****3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	430	2252	215	Extension for reply within second month	
1253	980	2253	490	Extension for reply within third month	
1254	1,530	2254	765	Extension for reply within fourth month	
1255	2,080	2255	1,040	Extension for reply within fifth month	
1401	340	2401	170	Notice of Appeal	
1402	340	2402	170	Filing a brief in support of an appeal	340
1403	300	2403	150	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,370	2453	685	Petition to revive - unintentional	
1501	1,370	2501	685	Utility issue fee (or reissue)	
1502	490	2502	245	Design issue fee	
1503	660	2503	330	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

**SUBTOTAL (3)** (\$340)**SUBMITTED BY****Complete (if applicable)**

Name (Print/Type)	Kenneth F. Smolik	Registration No. (Attorney/Agent)	44,344	Telephone	(312) 463-5000
Signature	<i>Kenneth F. Smolik</i>	Date	November 29, 2004		

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:

Nichols

Serial No.: 09/868,689

Filed: September 26, 2001

## For: A Simulation Engine with a Help Website and Processing Engine

Group Art Unit: 2121

Examiner: Hirl, Joseph P

Attorney Docket No: 005222.00163

## **BRIEF ON APPEAL**

**Mail Stop: Appeal Brief-Patents**  
**Commissioner of Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

Sir:

Pursuant to 37 C.F.R. § 1.192, Appellants submit this Appeal Brief, in triplicate, to the Board of Patent Appeals and Interferences in response to the Final Office Action mailed on March 29, 2004 and the Advisory Action mailed August 3, 2004. A Notice of Appeal was timely filed on September 27, 2004. Please charge any necessary fees in connection with this Appeal Brief to Deposit Account No. 19-0733.

### **1. Real Parties in Interest**

The real party in interest is ACCENTURE LLP.

## **2. Related Appeals and Interferences**

## **2. Related Appeals and Interferences**

Appellants are unaware of any appeals or interferences related to the subject appeal.

## **3. Status of the Claims**

Claims 1-18 are pending and are found in the Appendix. Claims 1-18 stand rejected. No claims have been allowed.

## **4. Status of Amendments**

No amendment after final rejection has been filed.

## **5. Summary of the Invention**

The present invention is directed to systems and methods to provide a cognitive educational experience, in which a user experiences a simulated real-world environment. An artificial intelligence (AI) engine may be utilized to drive individualized and dynamic feedback with synchronized video and graphics. The user navigates through a presentation at a pace controlled by the user. Moreover, a website is linked to the presentation to provide context-sensitive information to assist the user. Page 1, lines 31-38. Prior art educational systems typically utilize static, hard-coded feedback with some video and graphics to add visual appeal and to illustrate concepts. Typically, prior art educational systems do not architect real business simulations into the rules that provide a creative experience for the user. Page 2, lines 2-29.

Figure 2 (as shown below) illustrates a system architecture of an embodiment of the invention. Page 3, line 32 – page 4, line 12.

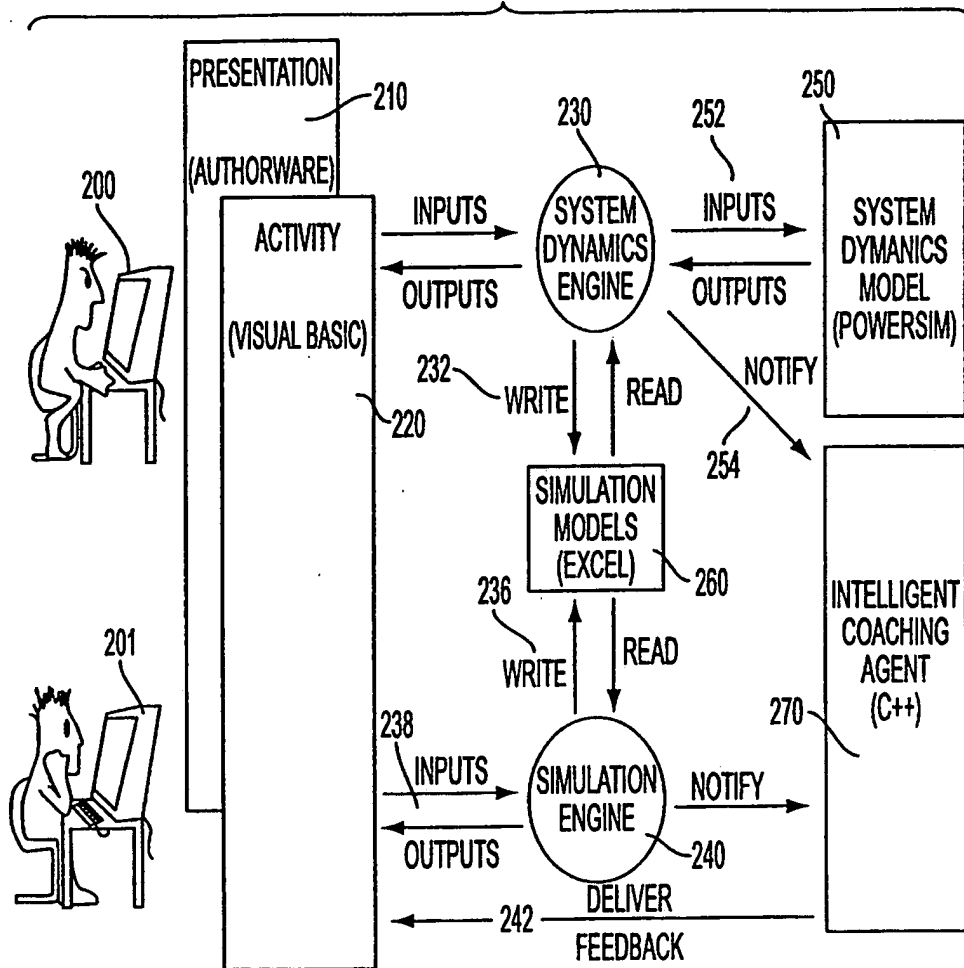


FIG. 2

Presentation layer 210 is separate from activity layer 220 and communication is facilitated through system dynamics engine 230 that controls the display specific content topics. An embodiment enables users (e.g., knowledge workers) 200 and 201 to acquire skills by placing individual users 200 and 201 in a simulated business environment.

System dynamics engine 230 may include a mathematical tool which simulates business outcomes of an individual's collective actions over a period of time. System dynamics model 250 may consist of an HTML content layer which organizes and presents packaged knowledge. Intelligent coaching agent 270 comprises artificial intelligence agent 240 which generates individualized coaching messages based on decisions made by the individual user 200 or 201. Feedback 242 is unique for each individual user 200 or 201 completing the course. The embodiment may provide a large number of pre-designed learning interactions such as inputs/outputs 238.

Figure 18 (as shown below) illustrates student interaction in accordance with an embodiment of the invention, in which a user (student) journalizes invoices. Page 18, lines 6-26.

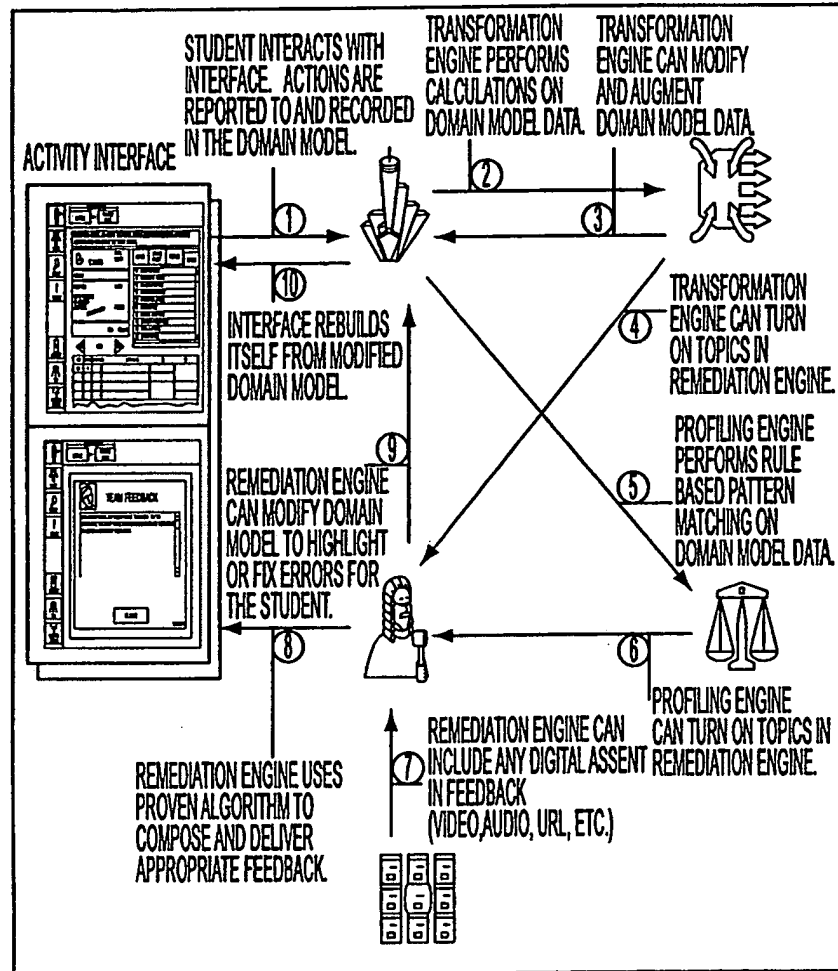


FIG. 18

As the user interacts with the interface, all actions are reported and recorded in the Domain Model and are submitted when the student is ready. An Analysis-Interpretation cycle is triggered and a Transformation Component is invoked to perform further calculations (e.g., verifying that debits and credits match in the submitted journal entries) on the submitted data in the Domain Model. A Profiling Component may subsequently perform rule-based pattern matching on the data in the Domain Model, examining both



the student actions and the results of the Transformation Component analysis. Some of the resulting profiles may activate topics in the Remediation Component, which is then invoked. The remediation algorithm searches active topics in order to determine the best set of topics to deliver to the user. For example, the topics may contain text, video, audio, and URLs. The presented material may be assembled into prose-like paragraphs to text and media and may include links to reference material.

## **6. Issues**

The issues under appeal are:

a) whether the specification shows independence between students and therefore is in compliance with the written description requirement under 35 U.S.C. § 112; and

b) whether US Patent No. 6,210,272 contains a teaching of every claim limitation.

## **7. Grouping of Claims**

The following claims stand or fall together in the six indicated groups: (a) claim 1; (b) claim 10; (c) claims 2 and 11; (d) claims 3 and 12; (e) claims 4 and 13; (f) claims 5 and 14; (g) claims 6 and 15; (h) claims 7 and 16; (i) claims 8 and 17; and (j) claims 9 and 18 .

## **8. Argument**

### **A. Office Action fails to show non-compliance of the written description under 35 U.S.C. § 112.**

#### **1. Specification discloses independence between students.**

The Office Action alleges that the specification is “silent on ‘the progress being independent of an activity of another student’.” However, “By disclosing in a patent application a device that inherently performs a function or has a property, operates according to a theory or has an advantage, a patent application necessarily discloses that function, theory or advantage, even though it says nothing explicit concerning it.” MPEP § 2163.07(a). The instant specification inherently discloses independence between students as included in the features of “monitoring progress of a student toward the goal and providing feedback that further assists the student in accomplishing the goal, the progress being independent of an activity of another student” as included in claim 1 and “logic that monitors progress of a student toward the goal and provides feedback that further provides the student assistance in accomplishing the goal, the progress being independent of an activity of another student.” For example, the system in Figure 2 includes a mathematical modeling tool that simulates business outcomes of an individual’s collective actions, in which the actions and processing of user 200 does not depend (i.e., independent) from the actions and processing of user 201. Page 3, line 32 – page 4, line 12. Moreover, the specification discloses methods and systems to insure independence between students to insure that the user (student) has completed all of the work rather than claiming the work of another user. For example, the specification discloses (Page 18, lines 1-5):

While the student is performing the work in Tasks, every action he takes, the feedback he gets, and any other indicators of performance are tracked in the Student Tracking Database. Periodically, part or all of the tracked data are transmitted to a central location. The data can be used to verify that the student completed all of the work, and can be further analyzed to measure his degree of mastery of the content.

Thus, the rejections of claims 1 and 10 under 35 U.S.C. § 112, first paragraph should be reversed.

**2. Software commonality, as disclosed by specification, supports independence between students.**

The Office Action further alleges that “Such [software] commonality will allow for similar (identical) student activity which, of course, would mean the progress of a student would not be different from that of another student.” While the instant specification discloses software commonality so that software design can be reused in different applications to improve software design efficiency (Page 5, line 22 – page 8, line 18.), the progress of a student is dependent on the actions of only that student and not of another student with the resulting software design. If the student does well enough, that student will progress through the presentation regardless of the actions of another student. For example, a profile (which may fire a topic in the Remediation Component) is activated based on the mistakes and correct answers given by the student and not another student. Page 18, lines 16-18. The above discussion provides further reasons for reversing the rejections of claims 1 and 10 under 35 U.S.C. § 112, first paragraph.

**B. Office Action fails to show a teaching for every claim limitation.**

**1. Brown requires dependence between students.**

While claim 1 claims a method that includes the feature of “monitoring progress of a student toward the goal and providing feedback that further assists the student in accomplishing the goal, the progress being independent of an activity of another student”, Brown (US Patent No. 6,210,272) requires dependence between students and thus does not teach this feature. For example, Brown teaches about “Setting a common goal, such

as maintaining good health in a particular way of correlating the outcomes of two player's actions in order to encourage cooperation and communications between the players. Another unique way of correlating the outcomes of the actions of two or more players is based on what is generally known as the Prisoner's Dilemma." Column 5, lines 61-67. Brown teaches about "cooperation and discussion between game players by correlating the player's progress toward achieving their game objective". Column 2, lines 11-13. In fact, as taught by Brown, "Each player is aware of the game actions of other player(s) through data synchronization via an electronic connect, such as a direct modem connection 114." Column 7, lines 60-63. Also, Brown discloses a payoff matrix in Figure 6, in which players either "cooperate" with or "betray" each other. Rather than having independence between players, Brown teaches away from independence and requires dependence between players. Brown does not anticipate claim 1, and thus the rejection of claim 1 under 35 U.S.C. 102(e) should be reversed.

Claim 10 claims an apparatus that includes "logic that monitors progress of a student toward the goal and provides feedback that further provides the student assistance in accomplishing the goal, the progress being independent of an activity of another student." Brown merely shows the dependence of outcomes for players as shown in FIG. 6. Column 6, lines 6-14. The disclosure as shown in FIG. 6 requires dependence between player 1 and player 2. The players may cooperate with each other (corresponding to the upper, left cell) or betray each other (corresponding to the lower, right cell). Also, one player may think that the other player will cooperate; however, the other player subsequently betrays the player (corresponding to the upper, right cell and the lower, left cell). Brown does not teach independence between players but requires interaction

between players. Thus, Brown does not anticipate claim 10. The rejection of claim 10 under 35 U.S.C. 102(e) should be reversed.

**2. Exemplary features found in dependent claims are not taught in Brown.**

Claims 2 and 11 include features relating to “the website comprises a plurality of HTML documents.” “While the Office Action alleges that ASCII files “are distributed among user computers and the server in a network architecture” (referring to column 7, lines 38-63 of Brown), Brown does not teach or even suggest the alleged ASCII files. Moreover, the Office Action further alleges that “HTML documents are ASCII files.” However, almost any conceivable form of human communication may be represented as an ASCII files, including Shakespeare’s “Hamlet” and a computer program. One cannot reasonably conclude that HTML files are taught from the assumption that ASCII files are taught. Thus, the rejections of claims of claims 2 and 11 under 35 U.S.C. 102(e) should be reversed.

Claims 3 and 12 include features relating to “the website comprises a relational database of information.” While the Office Action alleges that “a relationship database is a database that is organized and accessed according to relationships between data item” (referring to column 7, lines 38-63 of Brown), Brown does not provide teachings regarding databases of information and thus does not anticipate claims 3 and 12. Thus, the rejections of claims of claims 3 and 12 under 35 U.S.C. 102(e) should be reversed.

Claims 4 and 13 include features relating to “the website is keyword indexed.” While the Office Action alleges that “Brown anticipates the website is keyword indexed” (referring to column 5, lines 29-33 of Brown), Brown merely discloses a screen (e.g., a

menu) in which a user can choose one of a plurality of choices. The selected choice is tracked, and a player is correspondingly awarded points. However, Brown does not anticipate a website that is keyword indexed. Thus, the rejections of claims of claims 4 and 13 under 35 U.S.C. 102(e) should be reversed.

Claims 5 and 14 include features relating to “the website includes linkages to the presentation.” While the Office Action alleges that “Brown anticipates the website includes linkages to the presentation” (referring to column 7, lines 38-63 of Brown), Brown merely shows a client-server relationship in FIG. 7-A when referring to an Internet-connected approach, in which game software runs on each player’s computer. However, Brown does not anticipate a website that includes linkages to the presentation. Thus, the rejections of claims of claims 5 and 14 under 35 U.S.C. 102(e) should be reversed.

Claims 6 and 15 include features relating to “the website includes navigation information for the presentation.” While the Office Action alleges that “Brown anticipates the website includes navigation information for the presentation” (referring to column 5, lines 29-33 of Brown), Brown merely discloses a screen (e.g., a menu) in which a user can choose one of a plurality of choices. The selected choice is tracked, and the player is correspondingly awarded points. However, Brown does not anticipate a website that includes navigation information for a presentation. Thus, the rejections of claims of claims 6 and 15 under 35 U.S.C. 102(e) should be reversed.

Claims 7 and 16 include features relating to “the website is indexed in a hierarchical manner.” While the Office Action alleges that “Brown anticipates the

website is indexed in a hierarchical manner” (referring to column 5, lines 29-33 of Brown), Brown merely discloses a screen (e.g., a menu) in which a user can choose one of a plurality of choices. The selected choice is tracked, and the player is correspondingly awarded points. However, Brown does not anticipate a website that is indexed in a hierarchical manner. Thus, the rejections of claims of claims 7 and 16 under 35 U.S.C. 102(e) should be reversed.

Claims 8 and 17 include features relating to “the website includes presentations on related presentation information.” While the Office Action alleges that “Brown anticipates the website includes presentations on related presentation information” (referring to column 5, lines 29-33 of Brown), Brown merely discloses a screen (e.g., a menu) in which a user can choose one of a plurality of choices. The selected choice is tracked, and the player is correspondingly awarded points. However, Brown does not anticipate a website that includes presentations on related presentation information. Thus, the rejections of claims of claims 8 and 17 under 35 U.S.C. 102(e) should be reversed.

Claims 9 and 18 include features relating to “the website information is based on the presentation context.” While the Office Action alleges that “Brown anticipates the website information is based on presentation context” (referring to column 5, lines 29-5 and column 7, lines 38-63 of Brown), Brown merely discloses a screen (e.g., a menu) in which a user can choose one of a plurality of choices and an Internet-connected approach. The selected choice is tracked, and a player is correspondingly awarded points. However, Brown does not anticipate a website that includes presentations on related presentation information. Thus, the rejections of claims of claims 8 and 17 under 35 U.S.C. 102(e) should be reversed.

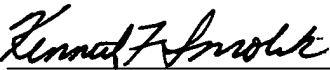
**Conclusion**

The rejections contained in the Office Action of March 29, 2004 should be reversed for at least the reasons recited above. Reversal of the rejections is requested.

Respectfully Submitted,

Banner & Witcoff, LTD

Date: November 29, 2004

By:   
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## **APPENDIX**

1. A method for creating a presentation, comprising the steps of:
  - (a) receiving indicia representative of a goal;
  - (b) integrating examples into the presentation to provide assistance with achieving the goal;
  - (c) monitoring progress of a student toward the goal and providing feedback that further assists the student in accomplishing the goal, the progress being independent of an activity of another student; and
  - (d) providing a linkage to a website of information to assist with achieving the goal.
2. A method for creating a presentation as recited in claim 1, wherein the website comprises a plurality of HTML documents.
3. A method for creating a presentation as recited in claim 1, wherein the website comprises a relational database of information.
4. A method for creating a presentation as recited in claim 1, wherein the website is keyword indexed.
5. A method for creating a presentation as recited in claim 1, wherein the website includes linkages to the presentation.
6. A method for creating a presentation as recited in claim 1, wherein the website includes navigation information for the presentation.
7. A method for creating a presentation as recited in claim 1, wherein the website is indexed in a hierarchical manner.
8. A method for creating a presentation as recited in claim 1, wherein the website includes presentations on related presentation information.

9. A method for creating a presentation as recited in claim 1, wherein the website information is based on the presentation context.
10. An apparatus that creates a presentation, comprising:
- (a) a processor
  - (b) a memory that stores information under control of the processor;
  - (c) logic that integrates examples into the presentation to provide assistance with achieving the goal;
  - (d) logic that monitors progress of a student toward the goal and provides feedback that further provides the student assistance in accomplishing the goal, the progress being independent of an activity of another student; and
  - (e) logic that provides a linkage to a website of information to assist with achieving the goal.
11. An apparatus that creates a presentation as recited in claim 10, wherein the website comprises a plurality of HTML documents.
12. An apparatus that creates a presentation as recited in claim 10, wherein the website comprises a relational database of information.
13. An apparatus that creates a presentation as recited in claim 10, wherein the website is keyword indexed.
14. An apparatus that creates a presentation as recited in claim 10, wherein the website includes linkages to the presentation.
15. An apparatus that creates a presentation as recited in claim 10, wherein the website includes navigation information for the presentation.
16. An apparatus that creates a presentation as recited in claim 10, wherein the website is indexed in a hierarchical manner.

17. An apparatus that creates a presentation as recited in claim 10, wherein the website includes presentations on related presentation information.

18. An apparatus that creates a presentation as recited in claim 10, wherein the website information is based on the presentation context.